# Ishmael Lim bin Abdullah @ Lim Keng Chew v Pesuruhjaya Tanah Persekutuan & Anor

COURT OF APPEAL (PUTRAJAYA) — CIVIL APPEAL NO W-01–220 OF 2010
RAUS SHARIF PCA, ABDUL MALIK ISHAK AND MAH WENG KWAI JJCA
19 MAY 2014

*Land Law — Acquisition of land — Validity of acquisition — Whether acquisition process completed when Borang K is issued notwithstanding failure to endorse memorial on document of title — Land compulsorily acquired and realienated to respondent transferred to appellant by original owner — Failure to endorse on title memorial in respect of acquisition — Whether appellant lawful registered owner of land — Land Acquisition Act 1960 ss 8, 22 & 23*

*Land Law — Indefeasibility of title and interests — Void instruments — Land compulsorily acquired and realienated to respondent transferred to appellant by original owner — Failure to endorse on title memorial in respect of acquisition — Whether acquisition process completed when Borang K is issued notwithstanding failure to endorse memorial on document of title — Whether appellant lawful registered owner of land — Whether original owner still had good title — Nemo dat quod non habet — National Land Code s 340 — Land Acquisition Act 1960 ss 8, 22 & 23*

A declaration of intended acquisition under s 8 of the Land Acquisition Act 1960 ('the Act') was issued on 10 April 1973 for a piece of land known as EMR 4091 Lot 1873, Mukim Rawang, District of Gombak, Selangor ('the land'). At the material time the registered owner of the land was one Lim Cheng Kim. Pursuant to an inquiry, Lim Cheng Kim was awarded a sum of RM6,187.80 as compensation for the acquisition of the land. On 11 March 1974 the *Borang* K (Notice That Possession Has Been Taken of Land) was issued under s 22 of the Act. On 24 October 1975 the land was transferred from Lim Cheng Kim to Lim Yew Kay, the appellant's father. On 22 January 1986 the land was realienated and a new title was issued in the name of the first respondent, with *Borang* D endorsed on the title. On 10 December 1992 the land, notwithstanding the realienation to the first respondent, was transferred from Lim Yew Kay to the appellant. The appellant charged the land to the bank as security for a loan. On 12 June 2002 a memorial was duly endorsed on the title to the land. On 7 November 2002 the appellant was informed by the second respondent that the land had been acquired on 11 March 1974. On 9 March 2005 the appellant was served with a notice to vacate and demolish any

structures on the land. The appellant commenced this suit claiming to have an indefeasible interest in the land pursuant to s 340 of the National Land Code ('the NLC'). The appellant contended that since no memorial in respect of the acquisition of the land had been endorsed on the title to the land in breach of s 23 of the Act, the acquisition process has not been completed in accordance with law. Hence, the appellant prayed for a declaration that he was the lawful registered owner of the land. The High Court held that the acquisition process for the land had been completed when *Borang* K was issued on 11 March 1974 and that the land thereafter vested in the state authority, notwithstanding that there was no endorsement of the memorial on the document of title. The appellant appealed against the High Court's decision.

**Held**, dismissing the appeal with costs:

(1) Upon the issuance of *Borang* K on 11 March 1974, the land had vested in the state authority notwithstanding that there was an omission to endorse the memorial on the title. The requirement for an endorsement of the memorial is a formality and the omission to do so did not invalidate the acquisition process. As such, the purported transfer of the land in 1975 to the appellant's father and in 1992 to the appellant were void and ineffective. The acquisition process had ended in 1974 (see para 39).

(2) Lim Cheng Kim, in law and in fact no longer had good title to the land in 1975 and as such was not in a position to transfer her title to the appellant's father. It is trite that where a vendor does not have good title, the common law rule is that no person can give a better title than what he had under the age old maxim of *nemo dat quod non habet* (see para 49–50).

(3) On the realienation of the land in 1986 and the registration of the first respondent as the new proprietor, it was the first respondent who had obtained an indefeasible title under the provisions of s 340 of the NLC (see para 54).

**[Bahasa Malaysia summary**

Perisytiharan pengambilan yang dicadangkan di bawah s 8 Akta Pengambilan Tanah 1960 ('Akta') dikeluarkan pada 10 April 1973 untuk sebidang tanah yang dikenali sebagai EMR 4091 Lot 1873, Mukim Rawang, Daerah Gombak, Selangor ('tanah tersebut'). Pada masa material pemilik berdaftar tanah adalah seorang yang bernama Lim Cheng Kim. Berikutan siasatan, Lim Cheng Kim diawardkan sejumlah RM6,187.80 sebagai pampasan untuk pengambilan tanah. Pada 11 Mac 1974 Borang K (Notis Bahawa Milikan telah Diambil Terhadap Tanah) dikeluarkan di bawah s 22 Akta. Pada 24 Oktober 1975 tanah tersebut dipindahkan daripada Lim Cheng Kim kepada Lim Yew Kay, bapa perayu. Pada 22 Januari 1986 tanah dipindah milik dan hakmilik baru dikeluarkan dalam nama responden pertama, dengan Borang D

diendorskan ke atas hakmilik. Pada 10 Disember 1992 tanah tersebut, walaupun pemberimilikan tanah kepada responden pertama, telah dipindahkan daripada Lim Yew Kay kepada perayu. Perayu mencajkan tanah kepada bank sebagai jaminan untuk pinjaman. Pada 12 Jun 2002 memorial diendorskan ke atas hakmilik kepada tanah. Pada 7 November 2002 perayu dimaklumkan oleh responden kedua bahawa tanah telah diambil alih pada 11 Mac 1974. Pada 9 Mac 2005 perayu diberikan notis untuk mengosongkan dan merobohkan apa-apa struktur atas tanah. Perayu memulakan tindakan ini menuntut mempunyai kepentingan tak boleh sangkal dalam tanah berikutan s 340 Kanun Tanah Negara ('KTN'). Perayu berhujah bahawa memandangkan tiada memorial berkaitan pengambilan tanah telah diendorskan ke atas hakmilik kepada tanah memungkiri s 23 Akta, proses pengambilan tanah belum lagi selesai mengikut undang-undang. Maka, perayu memohon untuk perisytiharan bahawa dia adalah pemilik berdaftar sah tanah. Mahkamah Tinggi memutuskan bahawa proses pengambilan tanah telah selesai apabila Borang K dikeluarkan pada 11 March 1974 dan bahawa tanah kemudiannya diletakhakkan pada pihak berkuasa, walaupun bahawa tidak terdapat pengendorsan memorial ke atas dokumen hakmilik. Perayu merayu terhadap keputusan Mahkamah Tinggi.

**Diputuskan**, menolak rayuan dengan kos:

(1) Atas pengeluaran Borang K pada 11 Mac 1974, tanah diletak hak pada pihak berkuasa walaupun terdapat ketinggalan untuk mengendors memorial atas hakmilik. Keperluan untuk pengendorsan memorial adalah keformalan dan ketinggalan untuk berbuat sedemikian tidak mentaksahkan proses pengambilan tersebut. Oleh itu, pindah milik tanah yang dimaksudkan pada tahun 1975 kepada bapa perayu dan pada 1992 kepada perayu adalah batal dan tidak efektif. Proses pengambilalihan telah tamat pada tahun 1974 (lihat perenggan 39).

(2) Lim Cheng Kim, dari segi undang-undang dan fakta sebenarnya bukan lagi mempunyai hakmilik betul kepada tanah tersebut pada tahun 1975 dan oleh itu tidak dalam keadaan untuk memindah milik hakmiliknya kepada bapa perayu. Adalah undang-undang nyata bahawa di mana penjual tidak mempunyai hakmilik betul, peraturan *common law* adalah bahawa tiada orang yang dapat memberi hakmilik yang lebih baik selain apa yang dia ada di bawah maksim *nemo dat quod non habet* (lihat perenggan 49–50).

(3) Atas pemberimilikan tanah pada tahun 1986 dan pendaftaran responden pertama sebagai pemilik baru, ia adalah responden pertama yang memperolehi hakmilik tak boleh sangkal di bawah peruntukan s 340 KTN (lihat perenggan 54).]

**Notes**

For cases on validity of acquisition, see 8(1) *Mallal's Digest* (4th Ed, 2013 Reissue) paras 2398–2401.

**Cases referred to**

*Lee Jean Khin dan lain-lain lwn Pengarah Tanah dan Galian, Negeri Pulau Pinang* [1996] MLJU 393, HC (refd)

*M & J Frozen Foods Sdn Bhd & Anor v Siland Sdn Bhd & Anor* [1994] 1 MLJ 294, SC (refd)

*Ng Kim Moi (P) & Ors v Pentabdir Tanah Daerah, Seremban, Negeri Sembilan Darul Khusus (Negeri Sembilan Township Sdn Bhd & Anor, proposed intervenors)* [2004] 3 MLJ 301; [2004] 3 CLJ 131, CA (refd)

**Legislation referred to**

Federal Constitution art 13(1)

Land Acquisition Act 1960 ss 8, 10, 14, 16, 22, 23, 29(2), 35, Forms A, B

National Land Code s 340

Specific Relief Act 1950 s 44(1)

**Appeal from:** Originating Summons No R2–24–17 of 2005 (High Court, Kuala Lumpur)

*Trevor George De Silva (Shauni Yeap with him) (Trevor George Partnership) for the appellant.*

*Noor Hisham bin Ismail (Senior Federal Counsel, Attorney General's Chambers) for the first respondent.*

*Ahmad Fuad bin Othman (Selangor Assistant Legal Advisor, Selangor State Legal Advisor) for the second respondent.*

**Mang Weng Kwai JCA (delivering judgment of the court):**

BACKGROUND FACTS OF CASE AND CHRONOLOGY OF EVENTS

**[1]** 10 April 1973 — a declaration of intended acquisition in *Borang* D pursuant to s 8 of the Land Acquisition Act 1960 ('the Act') that the land held under EMR 4091 Lot 1873, Mukim Rawang, District of Gombak, Selangor ('the land') was needed for a public purpose, that is, for the construction of a Military College, was *gazetted*.

**[2]** At the material time the registered owner of the land was one Lim Cheng Kim.

**[3]** 21 August 1973 — an intended acquisition: notice of enquiry in *Borang*

E under s 10 of the Act was issued to several land owners including Lim Cheng Kim. A

**[4]** 20 September 1973 — a written award of compensation in *Borang* G under s 14 of the Act was issued and Lim Cheng Kim was awarded a sum of RM6,187.80 as compensation for the acquisition of the land. B

**[5]** 13 October 1973 — a notice of award and offer of compensation in *Borang* H under s 16 of the Act was issued to Lim Cheng Kim.

C

**[6]** 27 December 1973 — upon the application of the land administrator under s 29(2) of the Act the court ordered that the compensation payable to Lim Cheng Kim together with the compensation for 13 other land owners, in the total sum of RM743,553.50 be deposited into court.

D

**[7]** 11 March 1974 — *Borang* K, the notice that possession has been taken of land, under s 22 of the Act was issued.

**[8]** 24 October 1975 — the land was transferred from Lim Cheng Kim to Lim Yew Kay, the appellant's father. E

**[9]** 22 January 1986 — the land was realienated and a new title issued in the name of the first respondent, with *Borang* D endorsed on the title.

F

**[10]** 10 December 1992 — the land, notwithstanding the realienation to the first respondent, was transferred from Lim Yew Kay to the appellant.

**[11]** 17 November 1993 — the appellant charged the land to United Malayan Banking Corp ('UMBC') as security for a loan. G

**[12]** 12 June 2002 — a memorial was duly endorsed on the title to the land.

**[13]** 7 November 2002 — the appellant was informed by the second respondent that the land had been acquired on 11 March 1974. H

**[14]** 9 March 2005 — the appellant was served with a notice to vacate and demolish any structures on the land on or before 22 March 2005.

THE APPELLANT'S CASE I

**[15]** The appellant claimed to be the lawful registered owner of the land having been transferred from his father on 10 December 1992 and that he had been residing on the land with his family since 1993.

**[16]** In 1995 the appellant, as the owner, had let part of the land to a telecommunications company for the construction of a telecommunications tower.

**[17]** The appellant was (presumably) unaware of the 1973/74 acquisition until on or about 9 March 2005 when two officers from the second respondent's office served him with a notice to vacate and demolish.

**[18]** The appellant had been diligently paying the assessments and quit rents since 1993 and had in fact charged the land to UMBC (now known as RHB Bank Bhd) as security for a loan on 17 November 1993.

**[19]** The appellant had made several land title searches on the land from 1993–2005 and at all times the land searches confirmed that the appellant was the registered proprietor.

**[20]** The appellant claims to have an indefeasible interest in the land pursuant to s 340 of the National Land Code as no memorial in respect of the acquisition of the scheduled land had been endorsed on the title to the land in breach of s 23 of the Act, and hence the acquisition process has not been completed in accordance with law.

**[21]** The appellant also claims lawful ownership as he has been in continued and undisturbed possession of the land since 1993 and having duly paid all the assessments and quit rents over the years.

**[22]** The appellant sought the following remedies in his originating summons:

(a) an injunction to restrain the first respondent and/or the second respondent from entering and taking possession of the land and demolishing any structures thereon pursuant to s 44(1) of the Specific Relief Act 1950;

(b) a declaration that the appellant is the lawful registered owner of the land; and

(c) that in the event title to the land has been vested in the first respondent, steps be taken to restore ownership thereof to the appellant.

**[23]** As there was no endorsement of a memorial on the document of title, Lim Cheng Kim was able to transfer her title to the appellant's father on 24 October 1975 and thereafter his father was also able to transfer ownership to the appellant on 10 December 1992, thereby making the transfer subject to s 340 of the National Land Code and the title indefeasible.

**[24]** As a result of the non-compliance by the respondents third party rights have accrued and registered over the land. **A**

THE RESPONDENTS' CASE

**[25]** By the issuance of *Borang* K to Lim Cheng Kim and to the other 13 land owners, the land had been lawfully acquired and formal possession had been taken by the land administrator. **B**

**[26]** Compensation for the acquisition had been duly awarded to the previous owners including Lim Cheng Kim. **C**

**[27]** The second respondent had admitted that due to the omission on its part to endorse the memorial on the document of title to the land, the transfers in 1975 and 1992 had been wrongfully occasioned. **D**

**[28]** The respondents claim that the land had been vested in the state authority upon the issuance of *Borang* K on 11 March 1974 and that the endorsement of the memorial required under s 23 of the Act was a mere formality. **E**

**[29]** In any event after the 1973/74 acquisition the land had been realienated and registered in the name of the first respondent in 1986 and as such the first respondent had obtained an indefeasible title to the land. **F**

THE HIGH COURT DECISION

**[30]** After a full trial the learned trial judge on 11 March 2010 held that the acquisition process for the land had been completed when *Borang* K was issued on 11 March 1974 and that the land thereafter vested in the state authority, notwithstanding that there was no endorsement of the memorial on the document of title. **G**

**[31]** The realienation of the land and registration in the name of the first respondent gave the first respondent an indefeasible title to the land. **H**

THE APPEAL

**[32]** Being dissatisfied with the decision of the learned trial judge the appellant appealed against the whole decision to the Court of Appeal. **I**

HEARING OF THE APPEAL

**[33]** Upon reading the written submissions of counsel for the appellant and the respondents and upon hearing oral submissions of counsel aforesaid, the court reserved its judgment on the appeal.

THE COURT OF APPEAL DECISION

**[34]** After considering the facts of the case and the law pertaining hereto, we have in our judgment decided to uphold the decision of the learned trial judge and to dismiss the appeal.

**[35]** We now give the grounds of our decision.

GROUNDS OF DECISION

**[36]** In this appeal the main issue to be determined by the court was whether the 1973/74 acquisition process had been completed.

**[37]** If it had been so completed then of course the land would have vested in the state authority and the first respondent would have obtained good title when the land was realienated and registered in the name of the first respondent.

**[38]** On the other hand, if the 1973/74 acquisition process was not completed then it would appear that Lim Cheng Kim was in a position to validly transfer the land to the appellant's father who subsequently on 10 December 1992 transferred the land to the appellant.

**[39]** We are of the view that upon the issuance of *Borang* K on 11 March 1974, the land had vested in the state authority notwithstanding that there was an omission to endorse the memorial on the title, a requirement under s 23 of the Act. We agree with the conclusion of the learned trial judge that the requirement for an endorsement of the memorial was a formality and the omission to do so did not invalidate the acquisition process. As such, the purported transfer of the land in 1975 to the appellant's father and in 1992 to the appellant were void and ineffective. The acquisition process had ended in 1974.

**[40]** It is interesting to note that the appellant did not challenge the validity of the commencement of the acquisition proceedings from the outset. The appellant's main bone of contention in his argument was that the acquisition was not complete and thus defeasible under the National Land Code.

**[41]** The appellant further contended that as the 1973/74 acquisition was not completed and there have been no subsequent acquisition proceedings carried out, the title obtained by the appellant in 1992 is therefore indefeasible.

**[42]** We are of the view that upon a closer reading of ss 22–23 of the Act it is clear that once formal possession of the land has taken place the land vests with the state authority.

**[43]** Sections 22–23 of the Act read as follows:

> Formal possession
>
> 22(1) The Land Administrator *shall take formal possession* of any scheduled land by serving upon the occupier thereof or, if he cannot be found, by posting thereon, *a notice in Form K*.
>
> (2) A copy of the list of lands *gazetted* under subsection 8(1), or any relevant part thereof, shall be included as a schedule to the notice in Form K.
>
> (3) Upon taking possession of land under subsection (1) the Land Administrator shall also serve a copy of the notice in Form K upon —
>
> (a) the registered proprietor of the land, where he is not the occupier; and
>
> (b) the proper registering authority, where he is not the Land Administrator himself.
>
> Entry in register
>
> 23 The proper registering authority, upon receipt of the notice in Form K, or the Land Administrator of his own motion after completing Form K, shall, upon the register document of title or other appropriate record in his possession as specified in subsection 9(2) or (3), make with respect to any scheduled land a memorial —
>
> (a) that the whole of such land has been acquired and has vested in the State Authority or, in the case of a parcel of a subdivided building, in the person or corporation on whose behalf the parcel has been acquired; or
>
> (b) that so much of the land as is specified in the last column of the schedule to such Form has been acquired.
>
> (Emphasis added.)

**[44]** It is not in dispute that *Borang* K had in fact been issued on 11 March 1974.

**[45]** Our view is fortified by the provisions of s 35 of the Act which read:

> Withdrawal from acquisition
>
> 35(1) The State Authority shall be at liberty to withdraw from the acquisition of any land of which *possession has not been taken*.
>
> (1A) Notification of every withdrawal from the acquisition of any land shall be published in the *Gazette*.

(2) Whenever the State Authority withdraws from any acquisition under subsection (1), the Land Administrator shall —

(a) determine the amount of compensation due for the damage, if any, done to such land by action taken under section 5 and not already paid for under section 6, and pay such amount to the person injured; and

(b) pay to the persons interested all such costs as shall have been incurred by them by reason or in consequence of the proceedings for acquisition, together with compensation for the damage, if any, which they may have sustained by reason or in consequence of such proceedings.

(3) The First Schedule shall apply, so far as may be, to the determination of the compensation payable under this section.

(4) The Land Administrator or other registering authority shall make a note of any withdrawal under this section in the manner specified in subsection 9(2) or (3).

(5) Notwithstanding anything contained in this section, the State Authority shall reserve the right to forfeit an amount which is sufficient to defray the amount of costs and damages incurred by any person interested and such amount shall be determined by the Land Administrator and shall be deducted from the deposit under paragraph 3(3)(d) in the event of any withdrawal made under this section.

**[46]** Essentially, what s 35 of the Act means is that once possession of the land has been taken the acquisition process is complete and it will be too late for the state authority to withdraw from the acquisition. The acquisition process is deemed ended and final and the state authority cannot resile from its position. Likewise in this case, once *Borang* K had been issued giving notice that possession has been formally taken of the land under s 22 of the Act it signalled the completion of the acquisition process and that the ownership of the land by the proprietor at the material time had terminated. The completion of the acquisition process did not depend on the endorsement of a memorial on the title.

**[47]** In *Lee Jean Khin dan lain-lain lwn Pengarah Tanah dan Galian, Negeri Pulau Pinang* [1996] MLJU 393, it was correctly observed by His Lordship Abdul Hamid Mohamed J (as he then was) that once possession has taken place, the state authority no longer has the liberty to withdraw from the acquisition.

**[48]** In light of the above, we are of the view that the finding by the learned trial judge that the endorsement of the memorial under s 23 of the Act was a formality is correct. The omission of the endorsement did not invalidate the acquisition process.

**[49]** We wholly agree with the findings of the learned trial judge that Lim Cheng Kim, in law and in fact no longer had good title to the land in 1975 and as such was not in a position to transfer her title to the appellant's father. This is what the learned trial judge said in her grounds of judgment at *rekod rayuan tambahan* p 64:

> Based on what I have stated above it was my view that when the said Lim Cheng Kim purported to transfer the said land to the Plaintiff's father on 24.10.1975, the said land had been effectively vested in the State Authority. Although the said Lim Cheng Kim's name continued to appear in the register of title as its proprietor, in fact and in law she no longer had any good title or any right to the said Land and by virtue thereof was incapable of transferring the same to the said Lim Yew Kay (the Plaintiff's father).
>
> By the same token, the Plaintiff's father, the said Lim Yew Kay not having acquired any or any good title over the said land could not then profess to transfer it to the Plaintiff.

**[50]** It is trite that where a vendor does not have good title, the common law rule is that no person can give a better title than what he had under the age old maxim of *nemo dat quod non habet* as was held in *M & J Frozen Foods Sdn Bhd & Anor v Siland Sdn Bhd & Anor* [1994] 1 MLJ 294.

**[51]** The appellant in his submissions attempted to make out a case that he was unaware of the acquisition proceedings until March 2005 when he was served with a notice to vacate and demolish any structures on the land by officers of the second respondent. However, a perusal of the following evidence will show that the appellant had prior knowledge that the land had indeed been acquired some 28 years previously, for a Ministry of Defence project, namely:

(a) on 13 April 1993 the appellant was informed that his application to change the condition of land usage of the land would not be processed as the land was involved in a Ministry of Defence project;

(b) on 24 June 2002, the second respondent invited the appellant to attend a discussion on 1 July 2002 to discuss and resolve the issue of ownership of the land; and

(c) the appellant received a letter dated 7 November 2002 from the second respondent informing him that the land had been acquired by the government on 11 March 1974 for a Military College project and that the land belonged to the first respondent.

**[52]** The above will show that the appellant since 1993 that is, a year after he became the registered owner of the land, had knowledge of the acquisition of the land for a Military College project.

**[53]** The fact that the appellant continued to stay on the land with his

family; continued to pay the assessments and quit rents; let out part of the land for the construction of a telecommunications tower by a telecommunications company; obtained a loan from UMBC on the security of the land and had conducted several land searchers on the land from 1993–2005 which continually showed that he was the registered proprietor of the land, unfortunately, did not assist the appellant to prove that his title was indefeasible.

**[54]** On the contrary, on the realienation of the land in 1986 and the registration of the first respondent as the new proprietor, it was the first respondent who had obtained an indefeasible title under the provisions of s 340 of the National Land Code.

**[55]** Counsel for the appellant cited the case of *Ng Kim Moi (P) & Ors v Pentabdir Tanah Daerah, Seremban, Negeri Sembilan Darul Khusus (Negeri Sembilan Township Sdn Bhd & Anor, proposed intervenors)* [2004] 3 MLJ 301; [2004] 3 CLJ 131 in support of the proposition that the court should require the acquiring authority to act strictly in accordance with the terms of the Act when depriving an owner of his immovable property in exchange for fair and reasonable compensation. However, the majority of the Court of Appeal in *Ng Kim Moi* held that the issuance of Forms A and B of the Act was not mandatory and its non-compliance was not fatal to the acquisition proceedings.

**[56]** While the court wholly agrees with counsel for the appellant that the appellant's ownership rights are protected by art 13(1) of the Federal Constitution, which rights cannot be deprived of 'save in accordance with law' that is, while the appellant's land may be compulsorily acquired there must be adequate compensation; the court cannot agree with the contention that there has been no lawful acquisition in this case. Albeit, no acquisition proceedings have been commenced after the appellant became the registered owner but the record shows that an acquisition was commenced in 1973 and completed in 1974. Due compensation no doubt, was not paid to the appellant but it was most certainly paid to Lim Cheng Kim, the predecessor in title. The acquisition was in accordance with law and thus constitutional even before the appellant purportedly became the lawful owner in 1992. The appellant's father and the appellant did not obtain an indefeasible title pursuant to s 340 of the National Land Code.

CONCLUSION

**[57]** In the result, it is the judgment of the court that the requirement for an endorsement of the memorial on the title to the land pursuant to s 23 of the Act, is a formality and the omission did not vitiate the acquisition proceedings to render them null and void and of no effect as the acquisition of the land had

been completed in 1974 when *Borang* K was issued.

**[58]** Accordingly, the appeal is dismissed with costs.

*Appeal dismissed with costs.*

Reported by Kanesh sundrum